

**MEDICAL EXAMINING BOARD
MEETING MINUTES
July 20, 2016**

PRESENT: Mary Jo Capodice, D.O.; Michael Carton (*arrived at 8:04 a.m. via GoToMeeting;*) Rodney Erickson, M.D.; Lee Ann Lau, M.D.; Suresh Misra, M.D.; Michael Phillips, M.D. (*via GoToMeeting;*) David Roelke, M.D.; Kenneth Simons, M.D.; Timothy Westlake, M.D.; Russell Yale, M.D.; Robert Zondag

EXCUSED: Bradley Kudick; Carolyn Ogland Vukich, M.D.

STAFF: Brittany Lewin, Executive Director; Nifty Lynn Dio, Bureau Assistant; and other Department staff

CALL TO ORDER

Kenneth Simons, Chair, called the meeting to order at 8:00 a.m. A quorum of ten (10) members was confirmed.

ADOPTION OF AGENDA

MOTION: Suresh Misra moved, seconded by David Roelke, to adopt the agenda as published. Motion carried unanimously.

MINUTES OF JUNE 15, 2016 – REVIEW AND APPROVAL

MOTION: David Roelke moved, seconded by Timothy Westlake, to approve the minutes of June 15, 2016 as published. Motion carried unanimously.

**APPOINTMENTS, REAPPOINTMENTS, CONFIRMATIONS, AND COMMITTEE, PANEL
AND LIAISON APPOINTMENTS**

LIAISON APPOINTMENTS

2016 LIAISON APPOINTMENTS	
Professional Assistance Procedure (PAP) Liaison	Mary Jo Capodice Alternate – Michael Phillips
Office of Education and Examinations Liaison	Timothy Westlake Alternate – David Roelke
Website Liaison	Robert Zondag Alternate – Michael Carton
Credentialing Liaison(s)	David Roelke, Rodney Erickson Alternate – Russell Yale, Carolyn Ogland Vukich
Legislative Liaison	Timothy Westlake
Maintenance of Licensure Liaisons	Rodney Erickson, Carolyn Ogland Vukich Alternate – Mary Jo Capodice
Newsletter Liaison	Kenneth Simons Alternate – Robert Zondag

Monitoring Liaison	Mary Jo Capodice Alternate – Timothy Westlake
Continuing Education Liaison	Rodney Erickson Alternate – David Roelke
Administrative Rules Liaison	Russell Yale Alternate – David Roelke
Prescription Drug Monitoring Program Liaison	Timothy Westlake Alternate – Mary Jo Capodice
Disciplinary Guidelines Committee	Lee Ann Lau, Kenneth Simons
Appointed to Controlled Substances Board as per Wis. Stats. §15.405(5g) (MED)	Timothy Westlake

MOTION: David Roelke moved, seconded by Suresh Misra, to affirm the Chair's appointment of replacement liaisons for 2016. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

(Michael Carton joined via GoToMeeting at 8:04 a.m.)

Guidelines Regarding Best Practices in Prescribing Controlled Substances

MOTION: Mary Jo Capodice moved, seconded by David Roelke, to approve the Opioid Prescribing Guideline presented by Timothy Westlake as presented. Motion carried unanimously.

SPEAKING ENGAGEMENTS, TRAVEL, OR PUBLIC RELATION REQUESTS, AND REPORTS

Citizen Advocacy Center 2016 Annual Meeting on September 17-18, 2016 in Portland, Oregon – Consider Attendance

MOTION: Russell Yale moved, seconded by David Roelke, to delegate Robert Zondag to attend the IMLCC Website Development meeting in Euless, Texas on July 26-27, 2016 and to authorize travel. Motion carried unanimously.

MOTION: Robert Zondag moved, seconded by Rodney Erickson, to delegate Michael Carton to attend the Citizen Advocacy Center 2016 Annual Meeting on September 17-18, 2016 in Portland, Oregon and to authorize travel. Motion carried unanimously.

CONSIDERATION OF CREDENTIALING DELEGATED AUTHORITY

MOTION: Suresh Misra moved, seconded by Rodney Erickson, to delegate the authority to the DSPS Attorneys to review and approve ordinance violations which are not substantially related to the practice of medicine, limited to:

1. Littering
2. Loitering
3. Up to two (2) Underage Drinking
4. One (1) OWI two or more years prior to application

5. Public Urination
 6. Disorderly Conduct two or more years prior to application
 7. Trespassing
 8. Disturbing the Peace
- Motion carried unanimously.

MOTION: Lee Ann Lau moved, seconded by Mary Jo Capodice, to delegate authority to the DSPS Attorneys to review and approve conviction review for Medicine & Surgery (Physicians) applications which have previously been approved for a full Resident Educational License (REL) license after a criminal background check and there have been no new violations or convictions since the previous license approval. Motion carried unanimously.

MEDICAL EXAMINING BOARD – DIVISION OF LEGAL SERVICES AND COMPLIANCE ANNUAL REPORT – BOARD REVIEW AND APPROVAL

MOTION: Robert Zondag moved, seconded by David Roelke, to approve the 2015 Medical Examining Board, DLSC Annual Report as published. Motion carried unanimously.

CLOSED SESSION

MOTION: Mary Jo Capodice moved, seconded by Timothy Westlake, to convene to Closed Session to deliberate on cases following hearing (§ 19.85 (1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 448.02 (8), Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.). The Chair read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Mary Jo Capodice – yes; Michael Carton – yes; Rodney Erickson – yes; Lee Ann Lau – yes; Suresh Misra – yes; Michael Phillips – yes; David Roelke – yes; Kenneth Simons – yes; Timothy Westlake – yes; Russell Yale – yes; and Robert Zondag – yes. Motion carried unanimously.

The Board convened into Closed Session at 9:42 a.m.

RECONVENE TO OPEN SESSION

MOTION: Suresh Misra moved, seconded by Lee Ann Lau, to reconvene in Open Session at 11:14 a.m. Motion carried unanimously.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MOTION: Timothy Westlake moved, seconded by Mary Jo Capodice, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

(Michael Phillips disconnected from the meeting at 9:50 a.m.)

**APPEARANCE – DLSC ATTORNEY YOLANDA MCGOWAN, ATTORNEY JASON
FRANCKOWIAK AND LORRIANE ASH, D.O. – REVIEW OF ADMINISTRATIVE
WARNING WARN00000512/DLSC CASE NO. 15 MED 171**

MOTION: Rodney Erickson moved, seconded by Timothy Westlake, to affirm the Administrative Warning in the matter of DLSC Case No. 15 MED 171 (L.A.). Motion carried. Opposed: Lau, Misra, Yale, Carton

(David Roelke recused himself and left the room for deliberation and voting in the matter concerning Lorriane Ash, DLSC Case No. 15 MED 171.)

FULL BOARD REVIEW

Application of Frank Miller, M.D.

MOTION: Timothy Westlake moved, seconded by Mary Jo Capodice, to find the scope and passing grades of the Indiana State Board examination (June 1977) is substantially equivalent to those of Wisconsin during June 1977. The Board therefore accepts the applicant's Indiana State Board examination in lieu of requiring further written or computer-based examinations. Board grants license once all requirements are met. Motion carried unanimously.

PETITION FOR EXAMINATION IN DLSC CASE NO. 14 MED 581, NANETTE J. LIEGEOIS, M.D.

MOTION: Mary Jo Capodice moved, seconded by Timothy Westlake, to grant the Division's request for an order requiring Respondent to undergo the requested psychiatric examination as the Board believes the results may be useful to the Board in conducting its hearing. Motion carried unanimously.

Complaint

14 MED 302

MOTION: Roelke moved, seconded by Misra, to find probable cause to believe that David Houlihan, M.D. DLSC Case No. 14 MED 302 has committed unprofessional conduct, and therefore to issue the Complaint and hold a hearing on such conduct pursuant to Wis. Stat § 448.02(3)(b). Motion carried unanimously.

(Rodney Erickson and Mary Jo Capodice recused themselves and left the room for deliberation and voting in the matter concerning David Houlihan, DLSC Case No. 14 MED 302.)

Administrative Warnings

14 MED 358

MOTION: Suresh Misra moved, seconded by Russell Yale, to issue an Administrative Warning in the matter of DLSC Case No. 14 MED 358 against A.C.P. Motion carried unanimously.

15 MED 462

MOTION: Timothy Westlake moved, seconded by Mary Jo Capodice, to issue an Administrative Warning in the matter of DLSC Case No. 15 MED 462 against J.B.V. Motion carried unanimously.

16 MED 101

MOTION: Mary Jo Capodice moved, seconded by Russell Yale, to issue an Administrative Warning in the matter of DLSC Case No. 16 MED 101 against D.F.S. Motion carried unanimously.

Proposed Stipulations, Final Decisions and Orders*15 MED 316 – Erik Branstetter, D.O.*

MOTION: Suresh Misra moved, seconded by David Roelke, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Erik Branstetter, DLSC Case No. 15 MED 316. Motion carried unanimously.

15 MED 452 – Emmanuel Fantone, M.D.

MOTION: Timothy Westlake moved, seconded by David Roelke, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Emmanuel Fantone, DLSC Case No. 15 MED 452. Motion carried unanimously.

Case Closings**CASE CLOSING(S)**

MOTION: Timothy Westlake moved, seconded by Mary Jo Capodice, to close the following cases according to the recommendations by the Division of Legal Services and Compliance:

1. 15 MED 300 (O.O.E.) **Prosecutorial Discretion (P5)**
2. 15 MED 304 (C.C.L.) **No Violation**
3. 15 MED 380 (T.A.C.) **Insufficient Evidence**
4. 15 MED 459 (L.F.Y.) **No Violation**
5. 15 MED 465 (K.H.R.) **Insufficient Evidence**
6. 15 MED 468 (M.A.Y.E.) **Insufficient Evidence**
7. 16 MED 034 (R.J.L.) **No Violation**
8. 16 MED 067 (J.P.F.) **No Violation**
9. 16 MED 153 (J.M.W.) **Prosecutorial Discretion (P3)**
10. 16 MED 183 (J.Z.) **No Violation**

Motion carried unanimously.

14 MED 244 – M.C.K.

MOTION: Mary Jo Capodice moved, seconded by Russell Yale, to close DLSC Case No. 14 MED 244 against M.C.K. for **Prosecutorial Discretion (P5-Flag)**. Motion carried unanimously.

15 MED 450

MOTION: Timothy Westlake moved, seconded by David Roelke, to close DLSC Case No. 15 MED 450 against J.A.P. for **Prosecutorial Discretion (P2)**. Motion carried unanimously.

(Rodney Erickson recused himself and left the room for deliberation and voting in the matter concerning J.A.P., DLSC Case No. 15 MED 450.)

PROPOSED FINAL DECISIONS AND ORDERS

Michael H. Malek, M.D. DHA Case No. SPS -16-0022/DLSC Case No. 15 MED 278

MOTION: David Roelke moved, seconded by Lee Ann Lau, to adopt the Proposed Final Decision and Order in the matter of disciplinary proceedings against Michael H. Malek, M.D., Respondent, DHA Case No. SPS-16-0022/DLSC Case No. 15 MED 278. Motion carried unanimously.

(Robert Zondag recused himself and left the room for deliberation and voting in the matter concerning Michael Malek, DLSC Case No. 15 MED 278.)

DELEGATION OF RATIFICATION OF EXAMINATION RESULTS AND RATIFICATION OF LICENSES AND CERTIFICATES

MOTION: David Roelke moved, seconded by Rodney Erickson, to delegate ratification of examination results to DSPS staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

ADJOURNMENT

MOTION: David Roelke moved, seconded by Mary Jo Capodice, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:15 a.m.